UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

THE LORGE SCHOOL,

Respondent,
and
Case No. 2-CA-37967

LINDA COOPERMAN,
An Individual.

NOW COMES Respondent and respectfully files the following exceptions to the ALJD issued by Judge Biblowitz in the above matter on November 19, 2009.

- 1. Page 2 line 24
 - Finding by the ALJ that Cooperman "functioned as a principal" in a prior position as it was not based on any valid record evidence. Transcript (T) p23
- 2. Page 4 lines 1-7

Finding by the ALJ that Cooperman "devoted" her time to creating a business. While it is admitted that Cooperman necessarily did some work in trying to establish a business, this hardly required such a full time commitment that she reasonably ended her search for an educational position. See Brief p.6-7

- 3. Page 5 line 37
 - The ALJ's rejection of Respondent's argument that Cooperman's gross back pay should not be reduced because of her inadequate search for work and his conclusion that Cooperman's efforts were more than adequate to satisfy her duty to attempt to mitigate her losses. See Brief p.5-6
- 4. Page 5 line 41

The ALJ 's conclusion that Respondent's position that Cooperman did not adequately search for work is based on credibility. Rather, Respondent's position is based on Cooperman's own testimony. Brief p. 3

5. Page 6 lines 34-41 and page 7 lines 1-2.

The ALJ's finding that it was perfectly reasonable for Cooperman to limit her job search in New York City to Manhattan and the Bronx for several months after August because the area contains millions of people and is not unduly limited. Administrative notice may be taken that The Lorge School is only a 20 minute subway ride from Brooklyn and the three months Cooperman failed to seek employment in Brooklyn are precisely the months that schools are hiring for the upcoming school year. Brief p. 6

6. Page 7 lines 12-23

The ALJ's finding that teaching and tutoring positions were not "substantially equivalent" in terms of pay or duties to the position from which Cooperman was discharged. Brief p.5-6

7. Page 7 lines 41-45

The ALJ's curious attributing to Respondent an argument that it did not make only to criticize Respondent because the Judge believe Respondent would have made the argument. The Board should reject the use of such unjudicial sarcasm.

8. Page 8 lines 20-21; lines 30-31

The ALJ's mischaracterization of Respondent's position regarding Cooperman's efforts to open a business. Brief p.7

9. Page 8 lines 32; lines 35-39; lines 45-46.

The ALJ's finding that Cooperman "devoted" herself to establishing a business and the placing upon Respondent to prove that did not work fulltime on conceiving and developing a new business. Brief p.7

10. Page 9 lines 6-7

The ALJ's finding that Respondent did not show that Cooperman's search for work was unreasonable since the limited nature of the search for work came though the testimony of Cooperman herself. JD Biblowitz p. 7 lines 5-6

11. Page 10 lines 7-43

The ALJ's finding that Respondent may not raise in the Compliance proceeding the issue that a the decision by two Members of the NLRB in the underlying case had no authority to issue the decision in the name of the Agency because Respondent did not raise the issue before the Court of Appeals. If two Board Members could not act for the Board, surely the Court could not enforce the non decision. The Board should revisit the underlying case when it again obtains a quorum or after the Supreme Court issues its decision in Laurel Baye.

12. Page 11 lines 8-12

The ALJ's conclusion that the Respondent should pay Linda Cooperman \$129,003.34 with interest. Brief p.7-8.

Respectfully submitted,

Daniel Silverman Counsel for Respondent

January 19, 2010